

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

EMEM UFOT UDOH,

Petitioner,

v.

MEMORANDUM OF LAW & ORDER
Civil File No. 19-1311 (MJD/HB)

NATE KNUTSON,

Respondent.

Emem Ufot Udoh, pro se.

The above-entitled matter comes before the Court upon Petitioner Emem Ufot Udoh's Motion to Vacate. [Docket No. 65]

On May 31, 2019, United States Magistrate Judge Hildy Bowbeer issued a Report and Recommendation recommending that Petitioner's Petition for Writ of Habeas Corpus be dismissed without prejudice. [Docket No. 5] With regard to Petitioner's claims challenging the validity of his state court conviction, the Report and Recommendation explained that the Court lacks jurisdiction over his successive habeas petition because Petitioner had not received authorization from the Eighth Circuit Court of Appeals to file a successive habeas petition. On

August 29, 2019, this Court adopted the Report and Recommendation, dismissed Petitioner's Petition for Writ of Habeas Corpus without prejudice, declined to issue a Certificate of Appealability, and entered judgment. [Docket No. 53] Petitioner appealed to the Eighth Circuit Court of Appeals. [Docket No. 57]

In September 2019, Petitioner filed a Motion to Reconsider [Docket No. 56] and a Letter requesting reconsideration of the Court's denial of his extension of time to file objections to the Report and Recommendation [Docket No. 55]. On September 18, 2019, this Court denied both motions. [Docket No. 60]

On January 30, 2020, Petitioner's current Motion to Vacate, signed by Petitioner on January 27, 2020, was filed in this Court. [Docket No. 65] On January 28, 2020, the Eighth Circuit denied Petitioner's application for a certificate of appealability, denied Petitioner's motion to remand, and dismissed the appeal. [Docket No. 64]

In the Motion to Vacate, Petitioner argues that he should be granted authorization to file a successive habeas and requests that the judgment of this Court be vacated and that the matter be "remand[ed] for further consideration." (Motion at 13.) As the Court explained in previous orders, only the Eighth Circuit Court of Appeals can issue an authorization to file a successive habeas

petition in this Court. This Court does not have jurisdiction to decide whether such authorization is warranted. Petitioner's current motion provides no basis for this Court to vacate its prior orders or judgment.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**
HEREBY ORDERED:

Petitioner Emem Ufot Udoh's Motion to Vacate [Docket No. 65] is
DENIED.

Dated: February 4, 2020

s/ Michael J. Davis
Michael J. Davis
United States District Court